

House Engrossed Senate Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

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CHAPTER 93

SENATE BILL 1018

AN ACT

AMENDING SECTIONS 15-816.01, 15-824 AND 15-825, ARIZONA REVISED STATUTES;
RELATING TO SCHOOL DISTRICT TUITION AGREEMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-816.01, Arizona Revised Statutes, is amended to
3 read:

4 15-816.01. Enrollment policies

5 A. School district governing boards shall establish policies and shall
6 implement an open enrollment policy without charging tuition. Tuition may be
7 charged to nonresident pupils only ~~when~~ IF the tuition is authorized under
8 section 15-764, subsection C, section 15-797, subsection C, section 15-823,
9 subsection A, section 15-824, subsection A or section 15-825 OR IF TWO SCHOOL
10 DISTRICTS HAVE ENTERED INTO A VOLUNTARY AGREEMENT FOR THE PAYMENT OF TUITION
11 FOR CERTAIN PUPILS. These policies shall include admission criteria,
12 application procedures and transportation provisions. A copy of the district
13 policies for open enrollment shall be filed with the department of education.

14 B. The governing board of the district educating the pupil may provide
15 transportation limited to no more than twenty miles each way to and from the
16 school of attendance or to and from a pickup point on a regular
17 transportation route or for the total miles traveled each day to an adjacent
18 district for eligible nonresident pupils who meet the economic eligibility
19 requirements established under the national school lunch and child nutrition
20 acts (42 United States Code sections 1751 through 1785) for free or reduced
21 price lunches.

22 C. The governing board of the district educating the pupil shall
23 provide transportation limited to no more than twenty miles each way to and
24 from the school of attendance or to and from a pickup point on a regular
25 transportation route or for the total miles traveled each day to an adjacent
26 district for nonresident pupils with disabilities whose individualized
27 education program specifies that transportation is necessary for fulfillment
28 of the program.

29 Sec. 2. Section 15-824, Arizona Revised Statutes, is amended to read:

30 15-824. Admission of pupils of other school districts; homeless
31 children; tuition charges; definitions

32 A. The governing board of a school district shall admit pupils from
33 another school district or area as follows:

34 1. Upon the presentation of a certificate of educational convenience
35 issued by the county school superintendent pursuant to section 15-825.

36 2. For three hundred fifty or fewer pupils, to a high school without
37 the presentation of such certificate, if the pupil is a resident of a common
38 school district within this state ~~which~~ THAT is not within a high school
39 district and ~~which~~ THAT does not offer instruction in the pupil's grade. The
40 three hundred fifty or fewer pupil limitation prescribed in this paragraph
41 does not apply to a small isolated school district as defined in section
42 15-901. Tuition shall be charged as prescribed in subsection E of this
43 section for each pupil admitted pursuant to this paragraph, each pupil from a
44 school district that provides only financing for pupils who are instructed
45 by another school district and each pupil from a unified district that does

1 not offer instruction in the pupil's grade. The school membership of such
2 pupils is deemed, for the purpose of determining student count and for
3 apportionment of state aid, to be enrollment in the school district of the
4 pupil's residence.

5 B. The residence of the person having legal custody of the pupil is
6 considered the residence of the pupil, except as provided in subsection C of
7 this section and in section 15-825, subsection B.

8 C. The current residence of a homeless pupil who does not reside with
9 the person having legal custody of the pupil is considered to be the
10 residence of the homeless pupil if the person having legal custody of the
11 pupil is a resident of the United States. For the purposes of this
12 subsection, "homeless pupil" means a pupil who has a primary residence that
13 is:

14 1. A supervised publicly or privately operated shelter designed to
15 provide temporary living accommodations.

16 2. An institution that provides a temporary residence for individuals
17 intended to be institutionalized.

18 3. A public or private place not designed for, or ordinarily used as,
19 a regular sleeping accommodation for human beings.

20 D. The school enrollment of a pupil who is a resident of this state or
21 who is admitted to a school district under section 15-823, subsection B, C or
22 E is deemed, for the purpose of determining student count and for
23 apportionment of state aid, to be enrollment in the school district of actual
24 attendance, except as provided in section 15-825, subsection A, paragraph 1
25 and subsection A, paragraph 2 of this section and except for pupils for whom
26 the superintendent of public instruction is charged tuition pursuant to
27 section 15-825, subsections B and D and section 15-976 or for whom another
28 school district is charged tuition as provided in subsections E and G of this
29 section.

30 E. If tuition is required to be charged for pupils attending school in
31 a school district other than that of their residence, the tuition shall be
32 determined and paid in the following manner:

33 1. The number of high school pupils for which tuition may be charged
34 to a common school district ~~which~~ THAT is not within a high school district
35 is equal to the average daily membership in the district of attendance from
36 the common school district for the prior fiscal year, except that for the
37 first year in which a common school district not within a high school
38 district stops teaching high school subjects, the district of attendance may
39 charge tuition for the number of pupils which is equal to the average daily
40 membership for high school pupils in the common school district for the prior
41 fiscal year. This number may be adjusted if the common school district
42 increases its revenue control limit and district support level or recomputes
43 its revenue control limit as provided in section 15-948.

1 2. The tuition for pupils attending school in a school district other
2 than that of their residence, except pupils provided for by section 15-825,
3 subsections B and D and any pupils included in the definition of child with a
4 disability in section 15-761, shall not exceed the cost per student count of
5 the school district attended, as determined for the current school year.
6 Tuition for pupils included in the definition of child with a disability in
7 section 15-761 shall not exceed the actual cost of the school attended for
8 each pupil as determined for the current year. The school district of
9 attendance shall not include in the cost per student count a charge for
10 transportation if no transportation is provided, and the charge for
11 transportation shall not exceed the actual costs of providing transportation
12 for the pupils served, as prescribed in the uniform system of financial
13 records. The school district of attendance shall provide the school district
14 of residence with the final tuition charge for the current year and with an
15 estimate of the budget year's tuition charge by May 1 of the current year.
16 The school district of residence shall pay at least one-fourth of the total
17 amount of the estimated tuition by September 30, December 31 and March 31,
18 and it shall pay the remaining amount it owes after adjustments are made by
19 June 30.

20 3. NOTWITHSTANDING PARAGRAPH 2 OF THIS SUBSECTION AND SUBSECTION G OF
21 THIS SECTION, IF TWO SCHOOL DISTRICTS ENTER INTO A VOLUNTARY AGREEMENT FOR
22 THE PAYMENT OF TUITION, THE AGREEMENT SHALL SPECIFY THE METHOD FOR COMPUTING
23 THE TUITION AMOUNT AND THE TIMING OF THE PAYMENTS. THE AGREEMENT SHALL NOT
24 BE LONGER THAN FIVE CONSECUTIVE YEARS. IF TWO SCHOOL DISTRICTS ENTER INTO AN
25 AGREEMENT AND CHOOSE TO RENEW THE AGREEMENT, EACH RENEWAL SHALL NOT BE LONGER
26 THAN FIVE CONSECUTIVE YEARS. THE AGREEMENT SHALL SPECIFY THAT A PARENT OR
27 LEGAL GUARDIAN OF A PUPIL AFFECTED BY A TUITION AGREEMENT ENTERED PURSUANT TO
28 THIS SECTION OR SECTION 15-816.01 MAY CHOOSE NOT TO SEND THEIR PUPIL OR
29 PUPILS TO A SCHOOL DISTRICT OR SCHOOL THAT IS A PARTY TO THE AGREEMENT.

30 ~~3~~ 4. Tuition of pupils as provided in section 15-825, subsection D
31 shall not exceed the excess costs for group B children with disabilities in
32 the cost study prescribed in section 15-236 minus the amount generated by the
33 equalization base as determined in section 15-971, subsection A for these
34 pupils. A school district may submit to the superintendent of public
35 instruction a record of actual excess costs to educate a group B child with a
36 disability if the costs are higher than the calculated excess costs or if a
37 pupil has been placed in a private school for special education services. The
38 superintendent shall determine if the additional costs will be paid, and if
39 the costs are paid, whether the additional costs will be paid by the state or
40 the resident district.

41 ~~4~~ 5. The amount received representing contributions to capital
42 outlay as provided in subsection G, paragraph 1, subdivision (b) of this
43 section shall be applied to the capital outlay fund or the debt service fund
44 of the school district.

1 ~~5-~~ 6. The amount received representing contributions to debt service
2 as provided in subsection G, paragraph 1, subdivisions (c) and (d) of this
3 section shall be applied to the debt service fund of the school district if
4 there is one. Otherwise such amount shall be credited to the capital outlay
5 fund of the school district.

6 F. A school district may submit to the superintendent of public
7 instruction a record of actual costs paid by the school district to educate a
8 pupil who qualifies for a certificate of educational convenience under
9 section 15-825, subsection B. If the actual costs for that pupil exceed the
10 costs per student count computed pursuant to subsection G of this section,
11 the superintendent of public instruction shall reimburse the school district
12 for these additional costs subject to legislative appropriation.

13 G. For the purposes of this section:

14 1. "Costs per student count" means the sum of the following for the
15 common or high school portion of the school district attended, whichever is
16 applicable to the pupil involved, as prescribed in the uniform system of
17 financial records:

18 (a) The actual school district expenditures for the regular education
19 program subsection of the maintenance and operation section of the budget
20 divided by the school district's student count for the common or high school
21 portion of the school district, whichever is applicable.

22 (b) The actual school district expenditures for the capital outlay
23 section of the budget as provided in sections 15-903 and 15-905 excluding
24 expenditures for transportation equipment and buildings if no transportation
25 is provided and expenditures for the acquisition of building sites, divided
26 by the school district's student count for the common or high school portion
27 of the school district, whichever is applicable.

28 (c) The actual school district expenditures for debt service divided
29 by the school district's student count for the common or high school portion
30 of the school district, whichever is applicable.

31 (d) The result obtained in subdivision (c) of this paragraph shall not
32 exceed:

33 (i) Seven hundred fifty dollars if the pupil's school district of
34 residence pays tuition for seven hundred fifty or fewer pupils to other
35 school districts or one hundred fifty dollars if the state pays tuition for
36 seven hundred fifty or fewer pupils to a school district pursuant to section
37 15-825, subsection D or section 15-976.

38 (ii) Eight hundred dollars if the pupil's school district of residence
39 pays tuition for one thousand or fewer, but more than seven hundred fifty,
40 pupils to other school districts or two hundred dollars if the state pays
41 tuition for one thousand or fewer, but more than seven hundred fifty, pupils
42 to a school district pursuant to section 15-825, subsection D or section
43 15-976.

1 (iii) The actual cost per student count if either the pupil's school
2 district of residence or the state pays tuition for more than one thousand
3 pupils to other school districts.

4 2. "Legal custody" means:

5 (a) Custody exercised by the natural or adoptive parents with whom a
6 pupil resides.

7 (b) Custody granted by order of a court of competent jurisdiction to a
8 person or persons with whom a pupil resides unless the primary purpose for
9 which custody was requested was to circumvent the payment of tuition as
10 provided in this section.

11 Sec. 3. Section 15-825, Arizona Revised Statutes, is amended to read:

12 15-825. Certificate of educational convenience; issuance;
13 effect on enrollment records

14 A. A pupil who is precluded by distance or lack of adequate
15 transportation facilities from attending a school in the school district or
16 county of the pupil's residence or who resides in unorganized territory may
17 apply to the county school superintendent for a certificate of educational
18 convenience. If it appears to the county school superintendent that it is
19 not feasible for the pupil to attend a school in the school district or
20 county of residence, the county school superintendent shall issue a
21 certificate authorizing the pupil to attend a school in an adjoining school
22 district or county, whether within or without this state. If a certificate of
23 educational convenience is issued as provided in this subsection, the school
24 enrollment of a pupil is as follows:

25 1. The school enrollment of a pupil who is precluded from attending a
26 school in this state and who must attend school in another state, when
27 certified to the county school superintendent by the official in charge of
28 the school attended, is deemed for the purpose of determining student count
29 to be enrollment in the school of the county or school district of the
30 student's residence.

31 2. The school enrollment of a pupil from unorganized territory or from
32 another school district is deemed for the purpose of determining student
33 count to be enrollment in the school district of actual attendance.

34 B. The county school superintendent of any county in which a pupil is
35 placed as described in this subsection shall issue a certificate of
36 educational convenience for the pupil to attend school in the school district
37 or adjoining school district to that in which the pupil is placed by an
38 agency of this state or a state or federal court of competent jurisdiction in
39 one of the following:

40 1. A state rehabilitation or corrective institution.

41 2. A foster home or child care agency or institution which is licensed
42 and supervised by the department of economic security or the department of
43 health services.

44 3. A residential facility operated or supported by the department of
45 economic security or the department of health services.

1 4. Under the supervision of the department of juvenile corrections in
2 a residence pursuant to the interstate compact on juveniles. Notwithstanding
3 section 41-1959, the placing agency, department or institution shall provide
4 the school district of attendance with the necessary information to enable
5 the district to obtain a certificate of educational convenience pursuant to
6 this subsection.

7 C. A pupil attending school under a certificate of educational
8 convenience issued pursuant to subsection B of this section is deemed for the
9 purpose of determining student count to be enrolled in the school district of
10 attendance. The county school superintendent of any county shall not issue a
11 certificate of educational convenience as provided in subsection B of this
12 section if the pupil is placed in the same district of ~~his~~ THE PUPIL'S
13 parents' or legal guardians' residence or if the pupil is placed without a
14 court order and ~~his~~ THE PUPIL'S parents or legal guardians are not residents
15 of this state.

16 D. If a certificate of educational convenience is issued as provided
17 in subsection B of this section, or for a pupil whose parent or guardian is
18 employed and domiciled by a state institution as prescribed by section
19 15-976, tuition may be charged as follows:

20 1. For group B children with disabilities:

21 (a) Who are from unorganized territory, whose parent or guardian is
22 employed by a state institution as prescribed by section 15-976 or who have
23 been issued a certificate of educational convenience pursuant to subsection B
24 of this section, the superintendent of public instruction shall reimburse the
25 district of attendance for the excess costs as provided in section 15-824,
26 subsection E, paragraph 3- 4.

27 (b) Who are from another school district, the school district of
28 residence shall reimburse the district of attendance for the excess costs as
29 provided in section 15-824, subsection E, paragraph 3- 4.

30 2. For pupils who are precluded from attending a school in this state
31 and who must attend a school in another state:

32 (a) If the pupil resides in a school district in this state, the
33 district of residence shall pay the amount charged by the district of
34 attendance.

35 (b) If the pupil resides in unorganized territory, the superintendent
36 of public instruction shall pay the amount charged by the district of
37 attendance.

38 E. The county school superintendent who issues a certificate of
39 educational convenience shall notify the superintendent of public instruction
40 of the issuance of the certificate. The superintendent of public instruction
41 shall draw a warrant in favor of the school district of actual attendance for
42 the amount charged, whether for common or high school attendance, as provided
43 in section 15-824.

1 F. The total amount of state monies that may be spent in any fiscal
2 year by the superintendent of public instruction for certificates of
3 educational convenience shall not exceed the amount appropriated or
4 authorized by section 35-173 for that purpose. This section shall not be
5 construed to impose a duty on an officer, agent or employee of this state to
6 discharge a responsibility or to create any right in a person or group if the
7 discharge or right would require an expenditure of state monies in excess of
8 the expenditure authorized by legislative appropriation for that specific
9 purpose.

APPROVED BY THE GOVERNOR APRIL 18, 2007.

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